

1 BILL NO. G-90-04-07

2 GENERAL ORDINANCE NO. G-_____

3 AN ORDINANCE establishing a
4 merit system for the Fort
5 Wayne Fire Department pursuant
6 to I.C. 36-8-3.5.

7 WHEREAS, I.C. 36-8-3.5 provides a mechanism for
8 adopting a merit system for public safety employees;

9 WHEREAS, the Fort Wayne Fire Department has no
10 merit system in place as a prior attempt to establish such a
11 system was declared unconstitutional.

12 NOW, THEREFORE BE IT ORDAINED BY THE COMMON
13 COUNCIL OF THE CITY OF FORT WAYNE:

14 SECTION 1. The Fort Wayne City Code is hereby
15 amended to include a new Division 3. Article IV. Chapter
16 20 "Fire Department Merit System," to read as follows:

17 SEC. 20-36. ESTABLISHMENT OF FIRE MERIT COMMISSION. A
18 merit commission consisting of five (5) commissioners is
19 hereby established for the Fort Wayne Fire
20 Department.

21 SEC. 20-37. COMMISSIONERS. The commissioners are:

22 1.) Two (2) persons, who must be of different
23 political parties, appointed by the Mayor.
24 2.) One (1) person appointed by the Common Council.
25 3.) Two (2) persons, who must be of different
26 political parties, elected by the active
27 membership of the department.

28 In accordance with I.C. 36-8-3.5-6, political
29 affiliation shall be determined through the voters'
30 registration records of the three (3) most recent primary
31 elections.

32 SEC. 20-38. QUALIFICATIONS OF COMMISSIONERS. Each
33 commissioner

34 1.) Must be a person of good moral character who is
35 not an active member of a police or fire
36 department or agency. In addition, no more than

two of the commissioners may be past members of a police or fire department agency.

- 2.) Must have been a legal resident of the City of Fort Wayne for three (3) consecutive years preceding the start of the commissioner's term.
- 3.) Must be twenty-one years of age.
- 4.) Must not be a salaried officer or employee of the City of Fort Wayne.

SEC. 20-39. TERMS OF COMMISSIONERS. The term of a commissioner is four (4) years. However, one of the Mayor's initial selections and one of the department's selections shall have only a two (2)-year term. Vacancies on the commission shall be filled within thirty (30) days by the appointing or electing authority. The selection is for the remainder of the unexpired term. A commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. A commissioner elected by the active membership of the department may be recalled as specified in I.C. 36-8-3.5-7(c).

SEC. 20-40. COMMISSIONERS PER DIEM. The Council, may from year to year establish, upon the recommendation of the Board of Public Safety, a per diem to be paid to each commissioner for each day of actual service for the commission.

SEC. 20-41. ELECTION OF OFFICERS. At the first regularly scheduled meeting of the commission each year, the commissioners shall select from among their number, a president, vice-president, and secretary.

SEC. 20-42. BUDGET. The commission shall submit a proposed annual budget and the Common Council shall include in the City's budget an amount sufficient for the necessary expenses of the commission.

SEC. 20-43. RULES OF THE COMMISSION. A majority of the commission constitutes a quorum and a majority vote of

1 all of the commissioners is necessary to transact the
2 business of the commission. Within thirty (30) days
3 after the commission is selected, the commission shall
4 adopt rules to govern the commission as provided by
5 I.C. 36-8-3.5-9. Within ninety (90) days after the
6 commission is selected, the commission shall adopt
7 rules, as provided in I.C. 36-8-3.5-10, governing:

8 1.) the selection and appointment of persons to be
9 employed as members of the Fire Department,
10 subject to applicable state public safety pension
11 statutes in a manner consistent with the
12 provisions of I.C. 36-8-3.5-11 and I.C. 36-8-3.5-
13 12.

14 2.) the promotion of members of the department in a
15 manner consistent with I.C. 36-8-3.5-13, I.C. 36-
16 8-3.5-14, I.C. 36-8-3.5-15, and I.C. 36-8-3.5-16.

17 3.) The demotion, discipline or dismissal of members
18 of the department in a manner consistent with I.C.
19 36-8-3.5-17 and I.C. 36-8-3.5-18.

20 SEC. 20-44. APPOINTMENT OF MEMBERS OF THE DEPARTMENT.

21 a.) The commission shall appoint and may remove
22 members of the department, except for a member in
23 an upper level policymaking position as such
24 position is defined by I.C. 36-8-1-12.

25 b. The Mayor shall appoint and may remove a member in
26 an upper level policymaking position provided that
27 such a removal be a removal from rank only and not
28 from the department. When a member is removed
29 from an upper level policymaking position, he
30 shall be appointed by the commission to the rank
31 in the department that he held at the time of his
32 upper level appointment or to any rank to which he
had been promoted during his tenure in the upper
level position. If such a rank is not open in
either case, the member is entitled to the pay of

that rank and shall be promoted to that rank as soon as an opening is available.

c.) The chief of the Fire Department shall be selected from the members of the department, and he must have at least five (5) years service in the department before his appointment. These requirements for fire chief may be waived by a majority vote of the common council upon request by the Mayor. In no event, however, may a person be appointed fire chief who has not had at least five (5) years service in a full-time paid fire department or agency.

SEC. 20-45. SUMMARY DISCIPLINARY ACTIONS.

a.) In addition to the disciplinary power of the commission, the fire chief may, without a hearing, reprimand or suspend without pay a member of the department, including any member of the department assigned to the Communication Division, for a maximum of five (5) working days. For purposes of this subsection, eight (8) hours of paid time constitutes one (1) working day.

b.) If the chief reprimands a member in writing or suspends a member, he shall, within forty-eight (48) hours, notify the commission in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended by the fire chief may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the commission review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the commission may hold a hearing during this review. If the decision is reversed, the individual who was suspended is entitled to any wages withheld as a result of the suspension.

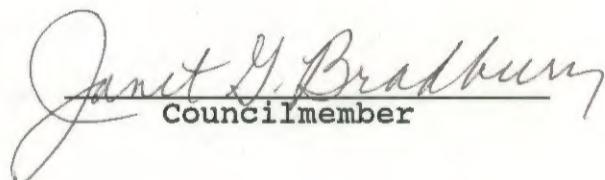
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1 SEC. 20-46. ADOPTION OF STATE MODEL MERIT SYSTEM. It is
2 the intent of the Common Council to adopt a fire merit
3 system modeled after the public safety merit system set
4 forth in I.C. 36-8-3.5. The Common Council expressly
5 adopts the provisions of I.C. 36-8-3.5-6, I.C. 36-8-
6 3.5-7, I.C. 36-8-3.5-8, I.C. 36-8-3.5-9, I.C. 36-8-3.5-
7 10, I.C. 36-8-3.5-11, I.C. 36-8-3.5-12, I.C. 36-8-3.5-
8 13, I.C. 36-8-3.5-14, I.C. 36-8-3.5-15, I.C. 36-8-3.5-
9 16, I.C. 36-8-3.5-17, I.C. 36-8-3.5-18, I.C. 36-8-3.5-
10 19, I.C. 36-8-3.5-21, and I.C. 36-8-3.5-22.

11 SECTION 2. EFFECTIVE DATE: Following passage and
12 approval by the Mayor, if a majority of the active members
13 of the department vote to approve the merit system herein
14 established, it shall take effect on January 1, 1991, in
15 accordance with I.C. 36-8-3.5-4.

16 SECTION 3. REPEAL OF CONFLICTING ORDINANCES.
17 Ord. G-29-75., Ord. G-41-77, and any and all other
18 ordinances previously adopted in conflict with the terms of
19 this ordinance, are hereby expressly repealed.

20 SECTION 4. That this Ordinance shall be in full
21 force and effect from and after its passage and any and all
22 necessary approval by the Mayor, subject only to the
23 limitations on the effective date of the merit system itself
24 set forth in Section 2.

25 
26 Councilmember

27 APPROVED AS TO FORM
28 AND LEGALITY

29 
30 J. Timothy McCaulay, Corporation Counsel

31
32

Read the first time in full and on motion by Bradbury, seconded by Deluiso, and duly adopted, read the second time by title and referred to the Committee on Legislation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on 19, the 19 day of April, at 10 o'clock A.M., E.S.T.

DATED: 4-10-50.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by Deluiso, and duly adopted, placed on its passage. PASSED LOST by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____
<u>EDMONDS</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	_____	_____	_____
<u>HENRY</u>	_____	_____	_____	_____
<u>LONG</u>	_____	_____	_____	_____
<u>REDD</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. on the _____ day of _____, 19____.

ATTEST

SEAL

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock A.M., E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock A.M., E.S.T.

PAUL HELMKE, MAYOR

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE FIRE DEPARTMENT MERIT LAW

Y-90-04-07

DEPARTMENT REQUESTING ORDINANCE MAYOR'S OFFICE

SYNOPSIS OF ORDINANCE ESTABLISHES A MERIT SYSTEM FOR THE FIRE

DEPARTMENT PATTERNED AFTER STATE MODEL PUBLIC SAFETY MERIT LAW.

TRANSFERS DISCIPLINARY RESPONSIBILITY FROM BOARD OF PUBLIC

SAFETY TO MERIT COMMISSION. CONFIRMS AUTHORITY OF MAYOR TO

MAKE UPPER LEVEL POLICY MAKING POSITION APPOINTMENTS.

EFFECT OF PASSAGE MERIT SYSTEM WILL BE ADOPTED 1/1/91 IF APPROVED BY A

MAJORITY OF THE MEMBERS OF THE DEPARTMENT.

EFFECT OF NON-PASSAGE CURRENT SYSTEM REMAINS IN PLACE.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)

ASSIGNED TO COMMITTEE (PRESIDENT)

BILL NO. G-90-04-07

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) (RESOLUTION) establishing a merit
system for the Fort Wayne Fire Department pursuant to I.C.
36-8-3.5

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (RESOLUTION).

DO PASS

DO NOT PASS

ABSTAIN

NO REC

5-14
Wait until
we hear from
Mr. McAlexander.

DATED:

Sandra E. Kennedy
City Clerk